

February 9, 2010

TO: Sean Dannen, Field Representative  
Washington Federation of State Employees (WFSE)

FROM: Teresa Parsons, SPHR  
Director's Review Program Supervisor

SUBJECT: Margaret Southard v. Department of Social and Health Services (DSHS)  
Allocation Review Request ALLO-09-016

On November 17, 2009, I conducted a Director's review conference regarding the allocation of Ms. Southard's position. You and Ms. Southard were both present at the Director's review conference. Pamela Pelton, Classification & Compensation Manager, represented DSHS. Peggy Nelson, Human Resources Manager for Western State Hospital (WSH) and Mark Seling, Director of the Center of Forensic Science (CFS) also participated in the conference.

### **Director's Determination**

This position review stems from Ms. Southard's Position Review Request (PRR), signed July 29, 2008, which is also the effective date. As the Director's designee, I carefully considered all of the documentation in the file, including the March 2005 Position Description Form (PDF) for Ms. Southard's position, the PRR, the PDF completed by Ms. Southard and signed by her supervisors in November 2008, and the subsequent PDF, signed in January 2009. I also reviewed the exhibits presented during the Director's review conference, as well as the verbal comments provided by both parties. Based on my review and analysis of Ms. Southard's assigned duties and responsibilities, I conclude her position is properly allocated to the Institution Counselor 2 classification.

### **Background**

Ms. Southard submitted a Position Review Request (PRR) to WSH's Human Resources Office on July 29, 2008. Both Ms. Southard and her supervisor, Developmental Disabilities Administrator 2 Vicki Carter, signed the PRR, and Ms. Carter agreed the duties described were an accurate reflection of Ms. Southard's work. On August 6, 2008, CFS Director Mark Seling signed the PRR, stating that no changes in duties had occurred since the 2005 Position Description (PDF) (Exhibit B-1). Ms. Southard then completed a PDF requesting

reallocation of her position (#TP94) from an Institution Counselor 2 (IC 2) to the Institution Counselor 3 (IC 3) classification, signed November 21, 2008 (Exhibit A-3). Ms. Carter completed and signed an Assessment of Observed Job Performance on the same date, indicating that she had observed Ms. Southard performing the higher level duties described in the attached PDF. The Acting Chief Executive Officer (CEO) for WSH, Connie Wilmont, also signed the Assessment of Observed Job Performance; however, Ms. Wilmont did not agree with the request for reallocation (Exhibit B-3).

On January 14, 2009, Mr. Seling sent a memo to Ms. Pelton in the Human Resources Division, stating that management did not believe the IC 2 positions, including Ms. Southard's, should be reclassified to the IC 3 level. Mr. Seling noted that the IC 2 positions were still performing the same duties identified on the PDFs for their positions, which had been issued approximately three years earlier. As part of her review, Ms. Pelton also looked at the PDF for Ms. Southard's position, signed in March 2005 by the Director of Rehabilitation Services at the time (B-4). In addition, Ms. Pelton reviewed an updated PDF signed by Ms. Southard on January 29, 2009, after she submitted her request for review but prior to Ms. Pelton's allocation decision (Exhibit B-2). On February 5, 2009, Ms. Pelton determined Ms. Southard's position was properly allocated as an IC 2. In summary, Ms. Pelton concluded the majority of assigned duties fit within the IC 2 classification and did not reach the level of responsibility described by the IC 3 classification (Exhibit B-6).

### **Summary of Ms. Southard's Perspective**

Ms. Southard explains that her position at WSH is within the Center of Forensic Science, where individuals who are court committed and have special security needs are housed. Ms. Southard asserts her position acts as a specialized, intensive service worker assisting and counseling these patients, including assaultive patients and developmentally disabled individuals with borderline intellectual functioning capabilities. Ms. Southard contends she works with high risk, unstable patients who have committed violent crimes and who require a greater amount of security, especially when participating in community resource programs. Ms. Southard notes that her current IC 2 classification does not reflect the intensive patients she works with, and she asserts her position has been misclassified for the past several years. Ms. Southard believes the IC 3 classification appropriately describes the duties and responsibilities assigned to her position.

### **Summary of DSHS's Reasoning**

DSHS asserts the majority of duties assigned to Ms. Southard's position involve counseling clients and assisting them with the adjustment to the institution and rehabilitation and recovery; compiling and preparing reports on the progress of clients; and assisting in making recommendations regarding treatment. DSHS emphasizes that the CFS Director and CEO for the hospital have both clarified that the duties assigned have not changed from the previous PDF and do not reach the level of responsibility reflected in the IC 3 definition. DSHS recognizes that the patients Ms. Southard works with are considered intensive clients by nature of being at WSH and in the CFS. However, DSHS asserts there are varying degrees of intensity and that a treatment team of psychiatrists and other medical professionals continually evaluate client behaviors to determine the types of therapy

programs they can attend. DSHS contends the clients exhibiting intensive or assaultive behaviors remain on the ward and do not attend the programs in Ms. Southard's area of responsibility. As a result, DSHS asserts Ms. Southard has not been assigned the level of responsibility of a specialist or intensive service worker. DSHS believes Ms. Southard's position is properly allocated to the IC 2 classification.

### **Rationale for Director's Determination**

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

### **Duties and Responsibilities**

In addition to the PRR and PDF completed by Ms. Southard and signed by her supervisor and WSH management, I also reviewed the PDFs from March 2005 and January 2009. The duties did not significantly change over this period of time. In summary, the purpose or objective of Ms. Southard's position includes working under the direction of the Adaptive Therapy Manager in the Treatment and Rehabilitation Center (TRC) within the Center of Forensic Science (CFS). In that capacity, Ms. Southard works in collaboration with treatment team members providing active treatment to patients in a day treatment setting at WSH. The majority of work involves providing specialized treatment that facilitates rehabilitation and recovery of patients attending a variety of classes at the TRC through the Alternative Treatment Program (ATP).

It is undisputed that the CFS serves individuals who are court committed and who have special security needs (Exhibits A-5 and 6). It is also undisputed that Ms. Southard provides services and instruction within the ATP to patients who as a whole have been described as intensive clients. However, during the Director's review conference, Mr. Seling explained that while all of the patients in the CFS may be considered intensive clients, the degree of intensity and specialized treatment varies from day to day. Mr. Seling emphasized that daily evaluation by a team of medical and psychiatric professionals, including psychiatrists with ultimate authority, determine whether or not CFS patients attend the TRC or participate in an ATP on any given day. Mr. Seling reiterated that patients exhibiting assaultive or intense behaviors are not allowed to go to the TRC or attend an ATP class.

Mr. Seling further indicated that the TRC has not been designated as an intensive unit at WSH. As a result, Mr. Seling stated that the IC 2 positions working within an ATP, including Ms. Southard's, have not been assigned the responsibility of serving as a specialist or intensive worker dealing with the more difficult situations that arise. Instead, Mr. Seling stated that client professional experts like Ms. Southard's supervisor deal with the more difficult cases when the patients cannot go to the TRC. The Habilitative Plan Administrators

(HPAs) specialize in developmental disabilities. Mr. Seling indicated that level of responsibility has not been assigned to Ms. Southard's position.

During the Director's review conference, Ms. Southard stated that her supervisor assigns her three or four classes per day each trimester and that her supervisor determines which clients get assigned to a particular program. Ms. Southard indicated that classes range from therapeutic and adaptive living to potential jobs such as gardening or janitorial skills. She gave one example of teaching clients job skills to assist other hospital clientele like wrapping plastic ware in napkins. Ms. Southard stated that she writes up treatment plans to show whether patients are meeting goals and documents progress in patient charts. Mr. Seling noted that medical staff members write the actual treatment plans but recognized Ms. Southard may write an addendum about what activities she may provide for the client. In terms of curriculum, Mr. Seling acknowledged Ms. Southard may contribute new ideas but indicated those ideas are added to class structures that already exist.

### Class Specifications

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations.

The **Institution Counselor 3** classification is defined as "[s]pecialist or intensive service worker who assists, counsels and interviews the more difficult cases such as the defective delinquent, assaultive, regressed, and severely withdrawn institution residents." While Ms. Southard counsels and assists patients (residents) who may be labeled intensive, Mr. Seling indicated those patients do not attend the treatment programs instructed by Ms. Southard when they are exhibiting behavior requiring specialized or intensive services. Therefore, the IC 3 classification is not the best fit for the duties and level of responsibility assigned to Ms. Southard's position.

The **Institution Counselor 2** definition indicates, in part, that this position "counsels and assists [institution residents] to improve adjustment to institution and to effect rehabilitation and recovery. While I recognize that the typical work examples given for both the IC 2 and IC 3 classes may overlap, the examples of work identified in a class specification do not form the basis for an allocation. Rather, the examples of work lend support to the work envisioned within a classification. When the CFS clients attend the ATP programs, they have been cleared to do so by the medical treatment team. Ms. Southard's position has been tasked with counseling and assisting these clients in adjusting to the institution. Similar to the typical work identified at the IC 2 level, Ms. Southard counsels and advises patients to assist in improving personal outlook, institutional and social adjustment; reports the individual's progress and overall adjustment; and makes or assists in making recommendations on treatment and training of these patients.

In determining whether Ms. Southard's duties of counseling and assisting patients best fit the IC 2 or IC 3 class, I also reviewed a prior decision by the Personnel Appeals Board (PAB) involving these classes. In Kepler v. Dept. of Social and Health Services, PAB Case No. ALLO-98-0019 (1999), the Appellant argued the Program for Adaptive Living Skills

(PALS) patients he worked with at WSH were assaultive, delusional, and threatening. As a result, the Appellant argued his position should be reallocated to the IC 3 class. While the PAB concluded some of the patients in the PALS program were difficult, the PAB also concluded those patients were returned to the main institution when they became assaultive. As a result, the PAB determined the Appellant spent the majority of time counseling and assisting PALS patients to improve their adjustment to the community rather than serving as a specialist or intensive service worker. Similarly, Ms. Southard counsels and assists patients to improve their adjustment to the institution. When patients are assaultive, they remain on the ward and do not attend the ATP programs taught by Ms. Southard.

Further, the Personnel Resources Board (PRB) has previously held that most positions within the civil service system occasionally perform duties that appear in more than one classification. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities. Dudley v. Dept. of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

It is important to note that a position's allocation does not reflect performance or an individual's ability to perform higher-level work. Rather, it is based on a comparison of duties and responsibilities to the available job classifications. The Institution Counselor 2 classification best encompasses the overall scope of work and level of responsibility assigned to Ms. Southard's position (#TP94).

### **Appeal Rights**

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board . . . . Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 600 South Franklin, Olympia, Washington. The main telephone number is (360) 664-0388, and the fax number is (360) 753-0139.

If no further action is taken, the Director's determination becomes final.

c: Margaret Southard  
Pamela Pelton, DSHS  
Lisa Skriletz, DOP

Enclosure: List of Exhibits

**Margaret Southard v. DSHS**

**ALLO-09-016**

List of Exhibits

Position #TP94

**A. Margaret Southard Exhibits**

1. Request for Director's Review March 4, 2009
2. DSHS's Allocation Determination letter dated February 5, 2009
3. Position Description Form (PDF), signed 11/21/2008
4. Recurring Events for CFS
5. Adaptive Therapy Program Handbook
6. Examples of Patient Data Sheet

**B. DSHS Exhibits, including DSHS's written summary, filed March 23, 2009:**

1. Position Review Request (PRR) signed July 9, 2008, with organizational chart.
2. Position Description Form updated and signed January 29, 2009 with attached organizational chart.
3. Assessment of Observed Job Performance
4. Previous Position Description Forms, March 2005.
5. January 14, 2009 memo from Mark Seling CFS Center Director, regarding duties performed.
6. DSHS's Allocation Determination letter dated February 5, 2009
7. Class Specification Institution Counselor 2
8. Class Specification Institution Counselor 3